

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

CITYNET, LLC, on behalf of
the United States of America,

Plaintiff/Relator,

v.

Civil Action No. 2:14-15947

FRONTIER WEST VIRGINIA INC.,
a West Virginia Corporation,
and KENNETH ARNDT, individually,
and DANA WALDO, individually,
and MARK McKENZIE, individually,
and KELLY GOES, individually,
and JIMMY GIANATO, individually,
and GALE GIVEN, individually,

Defendants.

ORDER

Pending is the motion to modify the scheduling order, filed May 29, 2019 by defendants Jimmy Gianato and Gale Given (the "state defendants"). The remaining defendants (the "Frontier defendants") filed a notice of joinder in the motion on June 3, 2019. On June 12, 2019, the plaintiff filed a response in opposition to the motion, to which the Frontier defendants replied on June 18, 2019.

This action has been stayed with respect to the state defendants since May 14, 2018, pending the outcome of their interlocutory appeal. The Fourth Circuit has not yet issued a

decision on the appeal, and pursuant to the court's order, entered March 27, 2019, discovery was to close on June 26, 2019. The defendants contend that additional time for discovery is warranted inasmuch as the state defendants have not been participating in discovery and the parties have yet to begin depositions, of which there may be as many as thirty.

The state defendants request that the court "modify the scheduling order but withhold setting new dates until such a time that the issue before the 4th Circuit Court of Appeals has been decided." Mot., ECF # 169 at ¶ 46. The Frontier defendants "consent to a general continuance as suggested by the State Defendants." Not. of Joinder, ECF # 170 at 2.

The plaintiff is not opposed to extending the discovery period but contends that such can be done without disturbing the remaining deadlines because any additional discovery by the state defendants should be minimal, and it does not anticipate there being as many depositions as the state defendants contend.

In view of the pendency of the interlocutory appeal of the state defendants on the question of qualified immunity before the United States Court of Appeals for the Fourth Circuit, and after the court's telephonic conference with counsel for the parties this day held, it is ORDERED that

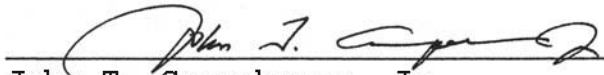
proceedings in this case be, and hereby are, stayed generally until the further order of the court.

Following the decision on appeal, the court will confer with counsel in the course of fixing a schedule for the remainder of this case in light of the ruling on appeal.

The Clerk is directed to retire this case from the active docket of the court.

The Clerk is requested to transmit copies of this order to all counsel of record and any unrepresented parties.

DATED: July 2, 2019



John T. Copenhaver, Jr.
Senior United States District Judge